

MINUTES OF THE
ARIZONA BOARD OF TECHNICAL REGISTRATION

October 23, 2007

9:30 AM

OPEN SESSION

1. **CALL TO ORDER** - The meeting of the Board of Technical Registration was called to order at 9:30 AM by Chairman Richard Pawelko.
2. **ROLL CALL** - Board Members in Attendance: Sheila Bowen (telephonically), Karen Cesare, Dawn Garcia (telephonically), Stuart Lane, Richard Pawelko, Susan Schaefer Kliman, and Ronald Starling. Absent: Chet Pearson and Robert Roos. Board Staff: Ronald Dalrymple, LaVern Douglas, Kathryn Fuller, Lisa Lawhorn, Manuel Maltos, and Cassie Goodwin. Assistant Attorney General: Terrie Sanders. Christopher Munns of the Office of the Solicitor General appeared telephonically for Agenda item number 5.D.1.
3. **CALL TO THE PUBLIC** – No members of the public spoke.
4. **ADOPTION OF MINUTES** – Mr. Lane moved to approve the September 25, 2007 minutes. Ms. Cesare seconded. Motion Carried.
5. **ENFORCEMENT MATTERS**
Review, Consideration and Possible Vote on the following:
 - A. **Proposed Dismissals**
 1. M08-005 Paragon Architects – This matter was tabled.
 2. M07-002 Michael J. McGill, P.E. (Civil) #40228 – Mr. Starling moved to dismiss based on the staffs' findings. Ms. Bowen seconded. After discussion, Motion Carried.
 - B. **Proposed Letter of Concern**
 1. M07-084 Phillip Wayne Rosendahl, P.E. (Civil) #24718 – Mr. Lane moved to dismiss the first allegation and issue a Letter of Concern to regarding Respondent sealing the Preliminary Grading and Drainage Plan for the Vincent Smith Office Building, an engineering project, with his Registered Land Surveyor seal, No. 24532. Ms. Cesare seconded. Mr. Reigle addressed the Board. After discussion, Motion Carried.

C. Proposed Consent Agreements

1. M07-072 Timothy M. O'Neill, R.L.S. #17403 – Mr. Lane moved to accept Respondent's signed consent agreement encompassing the following Order: Letter of Reprimand; Probation: Respondent shall prepare a Results of Survey of Lots 11, 12, 13, and 14 of the Tucson International Gateway Center, Tucson, Arizona, record the survey in the Pima County Recorder's Office and provide documentation of recordation to the survey to the Board within 10 days of recording; and Cost of Investigation: Respondent shall pay the cost of investigation in the amount of \$160.00. Dr. Schaefer Kliman seconded. After discussion, Motion Carried.
2. M08-042 O'Neill Engineering, Inc. – Ms. Bowen moved to accept Respondent firm's signed consent agreement encompassing the following Order: Administrative Penalty: Pay an administrative penalty in the amount of \$1,000.00; and Cost of Investigation: Pay cost of investigation in the amount of \$75.00. Mr. Lane seconded. After discussion, Motion Carried.
3. M07-120 Innovative Earthworks, Inc. – Ms. Cesare moved to accept Respondent firm's signed consent agreement encompassing the following Order: Administrative Penalty: Pay an administrative penalty in the amount of \$500.00; and Cost of Investigation: Pay the cost of investigation in the amount of \$75.00. Mr. Lane seconded. After discussion, Motion Carried.
4. M07-074 William J. Christenson, P.E. (Structural) # 34626 – Mr. Starling stated that while one of the assessors of this case is an employee of his firm, he had no prior knowledge of the matter before it was placed on the agenda and no conflict of interest. Mr. Starling moved to accept Respondent's signed consent agreement encompassing the following Order: Letter of Reprimand; Peer Review: Peer review of Respondent's next three (3) structural projects involving basements; and Cost of Investigation: Pay the cost of investigation in the amount of \$675.00. Mr. Lane seconded. After discussion, Motion Carried.
5. M06-160 Terry L. Moore, P.E. (Civil) #09293 – Ms. Bowen moved to accept Respondent's signed consent agreement encompassing the following Order: Letter of Reprimand; and Cost of Investigation: Pay cost of investigation in the amount of \$235.00. Ms. Garcia seconded. After discussion, Motion Carried.

D. Discussion and Consideration:

(Deem Allegations Admitted and Issue Board Order)

1. Thomas H. Trimble, P.E. (Civil) # 15620, Land Surveyor #15343 cases M05 308, M05-326, M06-157, M06-175, M06-214, M06-274, M06-284, M06-285, M07-033, M07-035, M07-057, M07-075, and M07-109 – Mr. Lane moved to deem the allegations admitted. Dr. Schaefer Kliman seconded. After discussion, Motion Carried.

Mr. Lane moved to impose the following Order: Suspension: Respondent's Arizona Registered P.E. (Civil) No. 15620 and Arizona Registered Land Surveyor No. 15343 registrations shall be suspended for one (1) year; Probation: Respondent shall be placed on probation for two (2) years following the one (1) year suspension; Administrative Penalty: Pay an administrative penalty in the amount of \$5,000.00. Within thirty (30) days Respondent shall pay \$1,150.00 and \$350.00 per month for the next eleven (11) months; Peer Review: Following the one (1) year suspension, Respondent shall submit to a peer reviewer all engineering and surveying projects for the next twelve (12) month period; and Cost of Investigation: Within 90 days pay the cost of investigation in the amount of \$2,240.00. Ms. Cesare seconded. After discussion, Motion Carried.

E. Proposed Enforcement Advisory Committee Candidates

1. Mark A. Hanshaw, P.E. (Civil) #15598, R.L.S. #26058 – Mr. Lane moved to accept Mr. Hanshaw as an Enforcement Advisory Committee Member. Ms. Bowen seconded. After discussion, Motion Carried.

2. Andrew Netupsky, P.E. (Structural) #20538 – Mr. Starling moved to accept Mr. Netupsky as an Enforcement Advisory Committee Member. Mr. Lane seconded. After discussion, Motion Carried.

6. HOME INSPECTOR ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Proposed Consent Agreements

1. M05-230, Jerry J. Brown, CHI # 38961 – Mr. Lane moved to accept Respondent's signed consent agreement encompassing the following Order: Letter of Reprimand; Administrative Penalty: Pay an administrative penalty in the amount of \$2,000.00; and Cost of Investigation: Pay the cost of investigation in the amount of \$270.00. Mr. Starling seconded. After discussion, Motion Carried.

2. M06-331, Randall A. Marlatt, CHI #38148 – Ms. Cesare moved to accept Respondent's signed consent agreement encompassing the following Order: Letter of Reprimand; Administrative Penalty: Pay an administrative penalty in the amount of \$500.00; Probation: Respondent's registration shall be placed on probation until restitution has been made to Mae Stees in the amount of \$275.00; Open Book Test: Respondent shall take and successfully complete an open book test of the Board's Statutes and Rules within 30 days with a passing score of 100%; and Cost of Investigation: Pay cost of investigation in the amount of \$410.00. Mr. Lane seconded. After discussion, Motion Carried.

3. M05-035, Roger D. Ross, CHI #38607 – Mr. Lane moved to accept Respondent's signed consent agreement encompassing the following Order: Letter of Reprimand; Administrative Penalty: Pay an administrative penalty in the amount of \$500.00; Probation: Respondent's registration shall be placed on probation until restitution has been made to Alicia Barnett in the amount of \$265.00; Open Book Test: Respondent shall take and successfully complete an open book test of the Board's Statutes and Rules within 30 days with a passing score of 100%; and Cost of Investigation: Pay cost of investigation in the amount of \$470.00. Dr. Schaefer Kliman seconded. After discussion, Motion Carried.

4. M05-044, Floyd E. Otwell, CHI # 38215 – Mr. Lane moved to accept Respondent's signed consent agreement encompassing the following Order: Letter of Reprimand; Administrative Penalty: Pay an administrative penalty in the amount of \$100.00; Open Book Test: Respondent shall take and successfully complete an open book test of the Board's Statutes and Rules within 30 days with a passing score of 100%; and Cost of Investigation: Pay cost of investigation in the amount of \$156.00. Dr. Schaefer Kliman seconded. After discussion, Motion Carried.

5. HI07-094, Randy R. West, CHI # 38451 – Mr. Starling moved to accept Respondent's signed consent agreement encompassing the following Order: Letter of Reprimand; Administrative Penalty: Pay an administrative penalty in the amount of \$1,000.00; and Cost of Investigation: Pay cost of investigation in the amount of \$65.00. Ms. Bowen seconded. After discussion, Motion Carried.

6. M06-077, Mathew L. Moskowitz, CHI # 41145 – Mr. Starling moved to accept Respondent's signed consent agreement encompassing the following Order: Voluntary Surrender: Respondent agrees to voluntarily surrender his Certified Home Inspector Registration No. 41145; Administrative Penalty: Pay an administrative penalty in the amount of \$500.00; Restitution: Respondent agrees to pay restitution to Justin Lutick in the amount of \$174.00; and Cost of Investigation: Pay cost of investigation in the amount of \$500.00. Mr. Lane seconded. After discussion, Motion Carried.

7. M06-046, David Sandoval, CHI #38462 – Mr. Lane moved to accept Respondent's signed consent agreement encompassing the following Order: Letter of Reprimand; Administrative Penalty: Pay an administrative penalty in the amount of \$100.00; Open Book Test: Respondent shall take and successfully complete an open book test of the Board's Statutes and Rules within 30 days with a passing score of 100%; and Cost of Investigation: Pay cost of investigation in the amount of \$182.00. Ms. Cesare seconded. After discussion, Motion Carried.

8. M06-275, Daniel E. Haydon, CHI #38067 – Mr. Lane moved to accept Respondent's signed consent agreement encompassing the following Order: Letter of Reprimand; Administrative Penalty: Pay an administrative penalty in the amount of \$250.00; Open Book Test: Respondent shall take and successfully complete an open book test of the Board's Statutes and Rules within 30 days with a passing score of 100%; and Cost of Investigation: Pay cost of investigation in the amount of \$398.00. Ms. Cesare seconded. After discussion, Motion Carried.

7. Review, Consideration, and Possible Vote on the following:
EVALUATION OF APPLICATIONS FOR EXAMINATION AND/OR POSSIBLE GRANTING OF REGISTRATION OR CERTIFICATION

1. Timothy Lincoln, P.E. (Electrical) #070985 – This matter was tabled.
2. Juan De La Torre, Architect # 071657 – Ms. Bowen moved to grant Mr. De La Torre Architect registration via comity. Dr. Schaefer Kliman seconded. After discussion, Motion Carried.

8. Review, Consideration, and Possible Vote on the following:
EVALUATION COMMITTEE AND STAFF RECOMMENDATIONS AND POSSIBLE GRANTING OF REGISTRATION OR CERTIFICATION (LIST AVAILABLE AT BOARD OFFICE)

1. Granting of professional or in training registration
2. Approval to sit for the professional or in training examination

Mr. Lane moved to accept the committee and staff recommendations listed in items 8.1 through 8.2. Dr. Schaefer Kliman seconded. Motion Carried.

9. Review, Consideration & Possible vote on the following:

1. ASBOG Foundation By-Laws – Ms. Garcia will be attending the meeting in Denver, Colorado on Saturday, October 27, 2007, at which time the by-laws will be discussed. She will provide more information at a future Board meeting.
2. Data Gathering for GIS – This matter was tabled until the March 25, 2008 meeting.

10. DIRECTOR'S REPORT

Proposed Rule Changes R4-30-304

Sealing of Letters

Seal Expiration Notice

The proposed rule package has been returned by Government Regulatory Review Council ("GRRC") with some wordsmith changes noted and will be re-submitted to GRRC next week and should be on the December GRRC meeting agenda.

Staff Changes

We are still working with the Arizona Department of Administration ("ADOA") personnel to fill the four newly authorized positions.

Mr. Dalrymple has asked the Governor's office for clarification regarding the Governor's executive order initiating a hiring freeze, travel restrictions and agency budget costs and their applicability to 90/10 agencies. No answer has been received as of October 22, 2007.

Arizona/Sonora Commission

The draft of the Memorandum of Understanding was reviewed again on September 21, 2007, has been slightly revised, and was presented to the liaison officer at the Governor's office for review by that office.

IBM Contract

The professional on line application program is still being developed. The State's contract with IBM to develop the program has expired and NIC has been contracted to finish the project.

Some problems have developed that are associated with the vendor switch and are currently being addressed by NIC, Government Information Technology Agency, and ADOA. Ms. Douglas is assisting those agencies by providing input relating to user problems and the Board's needs.

11. BOARD CHAIR'S REPORT

Mr. Pawelko attended the National Council of Architectural Registration Board's ("NCARB") Board Members' Chair Conference held in Memphis, Tennessee October 4 - 7, 2007. The conference focused on several items including their impact of licensing architects and revisiting their mission statement. NCARB is relocating to another floor in their current building but does not believe this should have a negative impact on the services they provide to candidates. This conference has traditionally been held every three (3) years but will now be held every two (2) years.

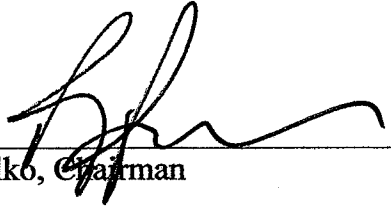
12. FUTURE BOARD MEETINGS – Tuesday, November 27, 2007 at 9:30 AM

13. FUTURE AGENDA ITEMS

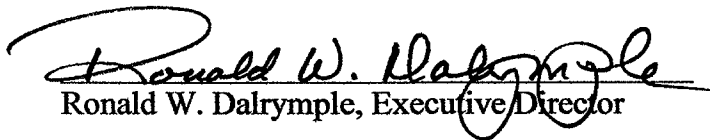
1. Storm Water Pollution Prevention Plans
2. City of Scottsdale – Notarization of Seal to Release Plans
3. Comity to Canadian PEs
4. Legislation and Rules Committee to look at the definition of “Good moral character and repute”

14. ADJOURNMENT – Meeting adjourned at 11:25 AM.

ARIZONA STATE BOARD OF TECHNICAL REGISTRATION



Richard Y. Pawelko, Chairman



Ronald W. Dalrymple, Executive Director